

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

DAWN HARDESTY

v.

UNITED STATES OF AMERICA

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Civil No. – JFM-11-3646

MEMORANDUM

Plaintiff has instituted this case under the Federal Tort Claims Act. Defendant has moved to dismiss for lack of subject matter jurisdiction on the ground that plaintiffs never filed an administrative claim as required by law.

Defendant's motion will be granted. In opposing defendant's motion, plaintiff relies upon a letter written to the United States Department of Transportation by her attorney giving notice to the agency that plaintiff has sustained personal injuries as the result of an automobile accident involving an employee of the agency, Alexander Dankanich. This letter, however, did not constitute an administrative claim as contemplated by the Federal Tort Claims Act because although it implicitly may be read as making a claim against the government, it did not make a claim for a sum certain as required by the FTCA. *See Kokotis v. United States*, 223 F.3d 275, 278 (4th Cir. 2000); *College v. United States*, 411 F. Supp. 738, 741-42 (D. Md. 2976), *aff'd*, 572 F.2d 453 (4th Cir. 1978).

To the extent that plaintiff contends that she was relieved of a duty to make a timely filing of an administrative claim because she did not know that Dankanich was acting within the scope of his employment at the time of the accident is flawed in two respects. First, the day after the accident, plaintiff herself contacted an attorney at the U.S. Department of Transportation to

report the accident. The attorney emailed plaintiff a copy of the claim form that was to be filed under the FTCA. Second, the law is clear that as a general rule a tort claim accrues at the time of plaintiff's injury, even if she is ignorant of the defendant's status as a federal employee at that time. *Gould v. U.S. Department of Health and Human Services*, 905 F.2d 738 (4th Cir. 1990).

A separate order dismissing this action for lack of subject matter jurisdiction is being entered herewith.

Date: February 13, 2012

_____/s/_____
J. Frederick Motz
United States District Judge